

1 A. Yes. We asked them in a meeting, make sure you
2 are flexible, you don't have any restrictions on it.
3 However, you know, some people will tell you yes there
4 and then a week or two later they will try to switch it
5 again. As we found out, we try to sort that out and,
6 obviously, replace them.

7 Q. I'm sorry. Sort what out?

8 A. You know, to see that they are committing to
9 being flexible. Because if they are not being flexible
10 and if they are causing more headache for us scheduling
11 wise and then we are not focusing on the operation of the
12 hotel, then it becomes very hard for us to run the hotel.

13 Q. But you received applications from these
14 individuals at that time? The individuals that you are
15 speaking about that you spoke to, did they give you new
16 applications?

17 A. Yes.

18 Q. Miss Payne, she was present at this meeting,
19 correct?

20 A. Yes.

21 Q. So she was aware that they applied?

22 A. Yes.

23 Q. Did you receive any more applications that week
24 to you personally and not in the presence of Miss Payne?



1 A. No, I did not receive much. Because I was more
2 focused on getting the operation of the Sleep Inn
3 organized.

4 Q. Okay. You were still, that first week though, I
5 think you mentioned that you did not want Miss Payne to
6 be involved too much in the staffing because you would
7 take care of that?

8 A. Right. But that's why I was trying to meet as
9 many areas, as many people with her so she would kind of
10 see the operation and how you run it training wise. It
11 was kind of like on-the-job training because there was no
12 other way for me to do it.

13 Q. So the way that you spoke to those women as far
14 as letting them know, look, this is what we require,
15 please, let me know if you are flexible so we can either
16 work with you or we have to replace you; is that --

17 A. Yes. And most of them came out saying, please,
18 try to give us as many hours as possible because we want
19 to work full-time. And that's what I always tell all my
20 general managers. Whoever says they want to work
21 full-time, are flexible, less complaints from the guests
22 should be a priority because that way our customer
23 service level will go up.

24 Q. Now, Mrs. Palmer applied directly to you on the



1 9th of August?

2 A. Actually, she did not apply.

3 Q. Did you receive her application?

4 A. I need to clarify first how she applied.

5 Q. Sure.

6 A. She, apparently, came into the hotel. She
7 thought she had a job there. And we were not aware of
8 who Islyn Palmer was. So I guess there was a breakfast
9 person that was somehow put in the schedule that Joan
10 made out, the new one in the middle of the week. When I
11 called the hotel to see how things were going, or I don't
12 know if the hotel called me, there was an assistant
13 manager working on the front desk because we were not
14 even fully staffed on the front desk yet, and said there
15 is a lady in the lobby screaming about her job. And I
16 said, what job? She said she's a breakfast attendant and
17 she's worked here for a while under the previous owners.

18 I said, okay, my policy has always been I
19 love people that want to work. So I want to bring them
20 in. I said, okay, then I'm going to be there in an hour
21 anyway so I will meet with her. When I met with her, she
22 started saying that she worked here for a while and she
23 used to work on the weekends, like that. I said, you
24 know what, before I can do anything for you, since I'm



1 not the manager, I want a manager to talk to you. What
2 you do, you apply here with the application. You do all
3 the paperwork. And she's off today. So you come in on
4 Monday or sometime in the middle of the week and that's
5 when you talk to her. That's what I told Christine.
6 Chris gave her the application on the 9th.

7 Q. Okay. So you were made aware that, at that time,
8 someone called to say there is a woman who thinks she has
9 a job here and she's upset. And you said I will be there
10 in an hour. You informed her that you couldn't do
11 anything for her until she filled out this application?

12 A. Right. I said because I do not know about the
13 operation of the scheduling part and the general manager
14 would have a better idea on a daily day-to-day operation
15 side of it because they see the current business. So she
16 can schedule you better. And what you need to do is all
17 your requirements or whatever you have, you need to
18 explain that to the general manager. However, on the 9th
19 she did not work that I'm aware because I could not let
20 her work on the 9th.

21 Q. Did Mrs. Palmer apply, fill out an application on
22 August 9th, 2003, that you are aware of?

23 A. I think so. I don't know. I have not seen the
24 application date when she applied. But I told Christine



1 to give her an application. And when you give an
2 application, I told her to also give her the employee
3 handbooks and everything.

4 Q. But you have never seen Mrs. Palmer's employee
5 file or never seen her application; is that correct?

6 A. No. I saw it when we were replying back to the
7 EEOC first question.

8 Q. During the investigation?

9 A. The first question, first letter we received from
10 the EEOC requesting what happened here.

11 Q. Was that prior to the lawsuit being filed?

12 A. That was way early I think. Let me tell you, the
13 whole lawsuit is wrong because the dates that Joan
14 remembers are different. That's the confusing part here.
15 But I'm the one that hired Palmer.

16 Q. Okay. Just answer the questions that I ask. I
17 haven't asked you anything about what she remembers or
18 what she doesn't as far as Miss Payne is concerned. But
19 it's your testimony that you hired Mrs. Palmer?

20 A. Meaning I hired in the sense that I pretty much
21 did the quick interview with her and told her about it
22 and said put your application in. We will try to get you
23 in. But give all your, whatever your scenarios are to
24 Joan because she will be the more responsible and you



1 will be reporting to Joan.

2 Q. So on the 9th, is it fair to say that you allowed
3 Mrs. Palmer to maintain her employment at Sleep Inn?

4 MR. CONNORS: Object to the form.

5 A. Not quite. Because the details we had not
6 figured out. But we never refuse anybody's application.
7 I wanted to make sure we got an application. Because
8 once we have an application, we can really sit down and
9 talk to the person.

10 Q. When was she hired?

11 A. I think in the middle of the week she came in and
12 she talked to Joan if I remember correctly. And I did --

13 Q. Let me finish the question. So she came in in
14 the middle of that week to speak to Joan. So the 9th was
15 a Saturday. So sometime between the 9th and the 16th she
16 came in to speak with Miss Payne; is that correct?

17 A. Yes. Now hold on. Let me finish my answer
18 though, the one before about the application. After she
19 applied, I said talk to the general manager and I'm going
20 to try to have you put back on the weekend schedule
21 because I was under the impression that she would be
22 working the weekends.

23 Q. Why were you under that impression?

24 A. Because she told me something like, oh, I work on



1 the weekends. And I said, what about the weekdays? And
2 I didn't quite understand her. But I was in a rush. I
3 said, okay, you know what, the best thing for you to do
4 is talk to the general manager because that's how we do
5 business. You need to talk to the general manager so she
6 understands your scenario. She's able to schedule you
7 better. But we look for full-time employees. I did
8 mention that to her.

9 Q. But then you said that she met with Miss Payne in
10 the middle of the week prior to the next weekend?

11 A. Uh-huh.

12 Q. And that, during that time, Miss Payne hired
13 Mrs. Palmer?

14 A. Pretty much, yes. She kind of took my word and
15 said, okay, yes, because she just assumed since I already
16 talked to her it's officially I'm just giving her, saying
17 go ahead and hire her. But she just assumed that.
18 Because when I met with her, I really thought she was
19 great. But scheduling was a problem for me in a sense
20 that I did not want to get involved in the scheduling
21 part of it because the day-to-day operation changes a
22 lot. So I said I want you to talk to a general manager
23 in that sense.

24 However, after I left -- I should put this



1 on the comment. I mean, after she left on the 9th,
2 Christine told me she was very rude in the lobby,
3 extremely rude.

4 Q. That's what Christine told you?

5 A. Yes.

6 Q. Was that when Ms. Palmer came in and found out
7 there was someone else working her shift?

8 A. Yes.

9 Q. So going back a little bit, you said that --
10 between the 4th and the 9th was about five days?

11 A. Yes.

12 Q. So Monday was the 4th and then the 9th and you
13 said you had been training Miss Payne that entire week as
14 far as how to handle the day-to-day operations of Sleep
15 Inn; is that correct?

16 A. Yes.

17 Q. And her duties and how to go about her duties as
18 general manager?

19 A. Yes, but she had more than just the scheduling
20 parts of it.

21 Q. Right. She had many other different
22 responsibilities, correct?

23 A. Because we didn't have the correct inventory of
24 supplies. We had to figure that out. We had to order



1 new linens because we were changing the whole companies
2 around.

3 Q. My question was: Did Miss Payne have other
4 responsibilities besides scheduling that you assisted her
5 with in training?

6 A. Yes.

7 Q. And she was present at the meeting where
8 employees came to you expressing their desire for more
9 hours and you told them to apply, to turn in their
10 applications; is that correct?

11 A. No, actually, that's not quite right. Before
12 they started to work, they had already picked up the
13 application and already filled that out. That's the only
14 way we told them to start the work in the morning.

15 Q. I guess what I'm saying is -- I'm trying to make
16 sure I'm clear. When the existing employees came in to
17 work, you said, wait, you can't work, you need to fill
18 out this application, right?

19 A. Well, that's something that we already left at
20 the front desk. When employees come in in the morning
21 tomorrow, before they come in, they need to do this
22 paperwork and have that, put it in her box and then
23 start. But they knew the system of having their own
24 cards. Because it was a new pay under a new company.



1 They will make up their cards with their names on it.
2 Then I came in about an hour or two later. So they did
3 not approach her. They approached me. Sir, we would
4 like to talk to you.

5 Q. At that time you had the kind of courtesy
6 orientation for these women to explain to them what you
7 expected?

8 A. Yes.

9 Q. And in that explanation, you said, I believe you
10 testified that it was imperative to have the full-time or
11 that they were aware that full-time employment was needed
12 as far as their schedules and they needed to be flexible;
13 is that correct?

14 A. Yes, yes. But that was not a problem with them
15 because they were all full-time and they wanted more
16 work.

17 Q. But at the time when you first met them, you
18 didn't know what their schedules were; that's why you met
19 with them?

20 A. Right. But in the orientation, they said they
21 all worked full-time and they said, oh, that's not a
22 problem.

23 Q. My question is: Did you explain to them it was
24 necessary for them to work full-time and that was very



1 important to you?

2 A. Yes.

3 Q. And when you spoke with Mrs. Palmer maybe two or
4 three days later, did you get that information from
5 Mrs. Palmer about her schedule and when she could work?

6 A. Well, she did start talking to me about her
7 weekends and weekdays. And I asked her can you work
8 these days. She said no. I said, well, at this point,
9 it's best you apply with us and then you talk to the
10 general manager, Joan, and see if you can, you know, if
11 she's able to work it out with you.

12 Because we would have a better idea as we
13 went along about who was staying with us, and then if we
14 found out, hey, we could squeeze her in on weekends only.
15 But then she threw in another curve ball, which is she
16 works one weekend two days and the other weekend only one
17 day.

18 Q. When did you find this out?

19 A. I think in the middle of the week or something.

20 Q. When she met with Mrs. Payne, is that when you
21 found that out?

22 A. She had mentioned that to me already on the 9th.
23 But I thought why don't she talk to the general manager.
24 Sometimes, yeah, I may be able to do it or not. I didn't



1 get into details with her on the schedule at that time.

2 I said why don't you talk to the general manager. And as
3 I have a chance to talk with her, we'll figure out.

4 So I think in my powwow meeting -- we try to
5 do it Wednesday or Thursday. She mentioned that to me.
6 What do we do? I said, well, that is going to be a big
7 problem for us because you are not going to be able to
8 find one person to do one day a week, especially on a
9 weekend. It's going to be very difficult for us to do
10 that. See if she can work in other departments. And I
11 guess, apparently, she said no.

12 Q. Now, you said you spoke to Miss Payne about
13 Mrs. Palmer's employment that week, I guess, since you
14 have your weekly powwow meeting. So if Mrs. Palmer
15 applied on the 9th, which is a Saturday, and the
16 following Thursday you had a powwow, sometime during that
17 week?

18 A. In the first two weeks, it was more like almost
19 every day. Because the first week I was there almost
20 every day. The second week I cut it down. Maybe I was
21 there an hour some days, some days half a day. I know on
22 Wednesday and Thursday, usually one of those days I was
23 at the hotel.

24 Q. And you spoke to Miss Payne about Mrs. Palmer?



1 A. Right. And she did express her concern about
2 having special person only on the weekends, two days and
3 one day. How will I do the scheduling like that? I said
4 that will be very difficult for you.

5 Q. And did she express, at that time, that she felt
6 Mrs. Palmer's inability to work different schedules was a
7 cause for concern as far as her work ethic?

8 A. No, she had not. Because then the following
9 week --

10 Q. At that time, did she express it to you?

11 A. No. I mean, she expressed something about the
12 schedule conflict.

13 Q. The schedule conflict at that time but not the
14 work ethic yet; is that correct?

15 A. Because she hadn't worked yet.

16 Q. Under your management?

17 A. Yeah.

18 Q. So was it then the following weekend -- she came
19 in on the 9th when she was originally scheduled to work
20 but found that another employee was working there, at
21 least that's what Mrs. Palmer has alleged; is that
22 correct?

23 A. Yeah, that's correct. When she came in,
24 obviously, we had a person there because we didn't know



1 she was working. Even if she was working there,
2 technically, she was not our employee.

3 Q. As far as you were concerned?

4 A. Yes.

5 Q. I just needed a yes or no to that. And then the
6 following weekend was the 16th and 17th; is that correct?

7 A. Correct, yeah.

8 Q. And that was the weekend after Mrs. Palmer
9 applied and a few days after Mrs. Palmer met with
10 Miss Payne; is that correct?

11 A. Yes.

12 Q. And then she reported to work again on the 16th
13 and 17th; is that correct?

14 A. Okay. Now, I think you've got two meetings. I'm
15 confused.

16 Q. The 9th she came in to work, found somebody was
17 working there.

18 A. Right.

19 Q. You informed her, talk to Christine and she will
20 give you an application to fill out, correct?

21 A. Yes.

22 Q. And you couldn't give her a hire right at that
23 second but you informed her that you didn't want to turn
24 down her application and that she should speak to the



1 manager on Wednesday or in the middle of the week,
2 correct?

3 A. Well, I wanted to hire her. And that's why I
4 told her you need to talk to the general manager.
5 Otherwise, I would have said based on application, I'm
6 not interested. I wanted to hire her but what I did not
7 want to do is set a precedent because the new general
8 manager is coming in. I don't want to go around hiring
9 people and she's not aware of it. I wanted to make sure
10 that she met with Joan.

11 Q. As well as yourself?

12 A. Because she already met me and she worked out the
13 scheduling part of it because Joan has to oversee her.

14 (Thereupon, a discussion was had off the
15 record.)

16 BY MS. SMITH:

17 Q. My question is just a yes or no. She met with
18 you first on the 9th and then following that she met with
19 Miss Payne; is that correct?

20 A. Okay. The meeting part I'm not sure. She met or
21 came in or did it on the phone, I'm not sure.

22 Q. But she did interact or have some sort of
23 conversation with Miss Payne prior to her coming in to
24 work again on the 16th and 17th of August?



1 A. Yes. She would have to.

2 Q. I will finish the question.

3 A. I thought you were done.

4 Q. No. I wanted to get the full date out. Never
5 mind. It's pretty clear.

6 And so when Mrs. Palmer came in to work on
7 the 16th, 2003, was there already someone scheduled to
8 work on that shift?

9 A. I don't know. I did not see the schedule. But I
10 think she had somebody and she probably moved her back
11 into the housekeeping. Mostly likely might have been
12 Marisol. And I think she put her back as like a
13 supervisor for the day.

14 Q. And then was she also working again on the 17th
15 of August, 2003?

16 A. As far as I remember. I thought she worked the
17 weekend.

18 Q. The both days?

19 A. I thought she was going to work that weekend. I
20 don't remember exactly.

21 Q. Okay. Do you ever recall seeing the new schedule
22 that Joan made up for the staff?

23 A. I saw that, I think, the day she made it up,
24 which was the 6th or 7th maybe.



1 Q. So she made up the new schedule around the 6th or
2 7th of August; is that correct?

3 A. I think so. Because we didn't have any of the
4 information the first two days. I think we were shooting
5 around Wednesday or Thursday to kind of nail it down. It
6 was going to be a rough schedule anyway for the first two
7 weeks for us because we -- even we also factor, because
8 of my previous experience, is even if people come on
9 board with you, they may quit on you in a day. That has
10 happened several times.

11 Q. But you still think it's necessary to make up a
12 schedule?

13 A. Oh, yes. Without that, how do you hold them
14 accountable?

15 Q. Now, after Mrs. Palmer worked the 16th and the
16 17th of August, was that the very first time that
17 Mrs. Palmer had worked under the new owners, Nabstar,
18 LLC?

19 A. I would have to check the record, but I think
20 that was, if I remember correctly, I think that's what it
21 was. But I can't remember if she worked one or two
22 weekends. She worked like two days one weekend, which
23 is the 16th and 17th. No, she would not have worked the
24 day before because we already made the schedules the



1 first week. So I doubt it. And she didn't want to work
2 the weekdays so she didn't work the weekdays.

3 Q. So the first time that Mrs. Palmer worked as an
4 employee for Nabstar was the 16th and 17th of August,
5 2003?

6 A. I'm not a hundred percent sure. I don't want to
7 give the wrong answer.

8 Q. Okay. It's just what you remember. Do you know
9 if Mrs. Palmer worked again after August 16th and 17th of
10 2003?

11 A. I don't remember. I don't think so.

12 Q. Do you know why Mrs. Palmer did not work after
13 the 16th and 17th of 2003?

14 A. It was over the phone that Joan actually called
15 me on this one and said I had to let her go. And I said,
16 why? Well, I received several complaints over the
17 weekend about the breakfast bar. And when I was talking
18 to her, she was very rude and had an attitude problem.
19 And being talking to her for the first day, I kind of had
20 to give her the benefit of the doubt, meaning Joan,
21 because I also had heard the same thing the first day she
22 came in. She was extremely rude. And I saw that too a
23 little bit in our conversation.

24 So I kind of gave her that benefit of the



1 doubt. Okay. Well, her daughter called -- and she had
2 already called me after the whole thing was terminated.
3 She said she was extremely rude too on the phone and she
4 kind of gave me an earful. So I said that would be bad
5 for our company. And she's like, yeah, that would be bad
6 because you can't just have staff member disrespect a
7 general manager. And as I'm trying to give Joan more
8 morale, I said you are right. If the employee can't
9 respect the supervisor, because that would be setting bad
10 precedent. So that's what I heard was the complaint.

11 And then she's like, well, you also had a
12 problem because her scheduling was so messed up, two days
13 here, one day the following week. And I say you couldn't
14 work that in? She said no. Did you offer her maybe a
15 combination, like work the weekend breakfast and the
16 weekdays housekeeping? She said, no, she can't work that
17 because she had another job or something like that. I
18 said okay.

19 Q. How long after Ms. Palmer's termination did you
20 speak with Miss Payne over the phone about Ms. Palmer's
21 termination?

22 A. I talked to her, which is our usually Wednesdays
23 or Thursdays, I think it was like either late Wednesday
24 or Thursday morning I talked to her, the week following



1 the 16th and 17th.

2 Q. The 20th maybe?

3 A. Yeah. 20, 21st.

4 Q. In that conversation, did Ms. Payne tell you that
5 she had to let Mrs. Palmer go?

6 A. She, actually, called me because she said her
7 daughter called and said she's going to sue you. She
8 said I'm just letting you know what happened. So I said,
9 why did you let her go? And that's when she -- I just
10 gave you all the details what she told me.

11 Q. And then so Ms. Payne told you, called to inform
12 you that she had already terminated Mrs. Palmer?

13 A. Yes.

14 Q. Does she normally call you when she terminates
15 employees?

16 A. Well, this was her pretty much like the third
17 week on the job. Yeah, after that she became more
18 careful because I told her you have to inform me first
19 before you terminate. However, we listed a few things,
20 stealing on the job or big incident where she can
21 terminate immediately and still let me know afterwards.

22 MS. SMITH: Could you read back the last
23 three questions?

24 (Thereupon, the reporter read back as



1 requested.)

2 BY MS. SMITH:

3 Q. What else did Miss Payne say to you in regards to
4 why she terminated Mrs. Palmer?

5 A. Well, her number one concern was the scheduling.
6 I said, we couldn't work around it? She said, no, she
7 was not very flexible. She said she also got a lot of
8 bad comments from the guests during the weekend, over the
9 weekend. At that point I said, well, then even working
10 around it would be tough because she already gave you
11 attitude in your conversation here and you are getting
12 bad complaints. That would be a bad problem. On top of
13 that you add the scheduling problem. I said you've got a
14 tough one on your hands.

15 But she had already terminated her. So it's
16 not like I had to come in an intervention here. She had
17 already terminated her at that point. Because in our
18 conversation -- she didn't give me exact detail of the
19 conversation. But she said she's got attitude problems.
20 She did emphasize a lot about the cleanliness of the
21 breakfast area and the complaints from the guests.

22 Q. Did she mention anything about the
23 insubordination in regards to flexibility and schedule?

24 A. Yes.



1 Q. Did she specifically use the term
2 "insubordination?"

3 A. I can't recall exact word for it. But she said
4 it would be hard for me to create a schedule the way she
5 wants it because then you will have five other employees
6 coming back saying I want this, this, this day they work.
7 And we would have chaos. As it is, we already have chaos
8 on hand.

9 Q. And did you consider any employees' conflict of
10 schedule to be insubordination?

11 A. Yes. We normally do not tolerate that.

12 Q. You don't tolerate a conflict of schedule?

13 A. Yeah, we do not tolerate when they start becoming
14 picky and say now I'm only going to work this, this, this
15 day on.

16 Q. If an employee already worked a certain schedule
17 and they were unable to change that schedule, since you
18 came into a situation where there are existing employees
19 and they came to you to say, listen, I would like to
20 continue working my old schedule and I am not able to
21 work the schedule that you asking me, that's what you
22 consider the insubordination?

23 A. Well, see, that's a pretty open question. We did
24 not have a full handle of the property at that point, the



1 scheduling. But if they came in and said I only work 9
2 to 5, Monday through Friday, then that would not work
3 with us and we would just let them go.

4 Q. My question is: Mrs. Palmer is alleging that she
5 had previously been working an existing schedule and
6 Nabstar is alleging that she refused to change the
7 schedule that she had been working prior to the company
8 takeover. Is that type of scheduling conflict what you
9 consider to be insubordination?

10 A. Well, her case is little different in the sense
11 that she was not our employee to begin with. She may
12 have worked for years under a previous owner a certain
13 schedule. But that had no effect on us because for us it
14 was like opening a new hotel. So we looked at it that
15 way.

16 However, when she came in and said I worked
17 here in the past, and I always like to keep employees
18 from the past, so we try to do it. But I did not have a
19 full handle of her scheduling. We didn't quite
20 understand it. That's when I asked her to talk to the
21 general manager.

22 Q. And because you were, at some point, made aware
23 she was working previously, even though that did not bind
24 you to keep her to that schedule, is it your testimony



1 that, is it your allegation that the fact that she, you
2 are saying that she refused to change her schedule to the
3 schedule you wanted, that was insubordination?

4 A. That would be, yes, in a sense that she was not
5 flexible. And our business requires complete flexibility
6 because of customer service. You could have a call-out.
7 If you had a call-out, we need a breakfast person. If we
8 had another breakfast person that could work, even during
9 the weekdays, it would make it easy for us. We would
10 call them. Can you, please, come in because so and so is
11 sick?

12 Q. When you met with Joan Payne with the individuals
13 who offered to work however many hours they were willing
14 to work according to whatever schedule you gave them,
15 would you have terminated any of them for insubordination
16 if they had told you that they could not, that they
17 needed to work their old schedule?

18 A. Yes, after the first week, after the first
19 week-and-a-half or whatever we had left -- we had almost
20 two weeks left. Yeah, after that we would have made it
21 to our policy. The first two weeks were really tough for
22 us to get anybody to work for us that were there. And
23 then once we get our new schedule out, we wanted them to
24 stick to it.



1 Q. So you would not have given them any opportunity
2 to work; you would have just terminated them on the spot?

3 A. After, yeah. Well, we'd first try to talk to
4 them. Because we always tell our GM's, you are not in
5 the firing business. That's your last option. You try
6 to figure out ways how you can make it work. If you can
7 give them another job duties or within the same field or
8 maybe they can't work certain days but they can work
9 certain hours, try to get it done like that. But if they
10 can't work full-time and they are getting very strict
11 about certain days that they want to work, then we would
12 have to let them go.

13 Q. For insubordination?

14 A. Yes.

15 Q. Or conflict of schedule?

16 A. Either, anyway you take it. Because once they
17 start telling management I can only work this day or that
18 day, for us it would be a nightmare because everybody
19 wants to work 9 to 5.

20 Q. I'm confused. Because if that is the case, then
21 why was Ms. Palmer given the opportunity to work the 16th
22 and 17th?

23 A. Because I decided to be a Mr. Nice Guy. And I
24 thought if I gave her a chance to work with us and then



1 she talks to the general manager and clarified the
2 schedule, maybe we could keep her. Because I am very big
3 on loyalty. And when she said she worked under the
4 previous owner and she wanted to work, I thought I was
5 being a nice guy. And it's really hurting us right now.

6 Q. Now, you are saying that you did allow
7 Mrs. Palmer to continue her employment when you spoke to
8 her on the 9th?

9 A. Well, I talked to her about the brief schedule
10 and we talked about that she would work the weekend. I
11 said, okay, I might be okay with it, but I want you to
12 talk to Joan first.

13 Q. And because she did work on the weekend, is it
14 safe to say that Ms. Payne also was okay with her working
15 the weekend schedule?

16 A. No. Actually, it looks like after the first
17 weekend, she received the complaints. And she asked me
18 is that okay. I said, yes, Delaware is considered at
19 will employment state. If you are not happy with the
20 employee, then you can get rid of them because that is
21 what the Department of Labor told us.

22 Q. Let me back up one second. So after she met with
23 Miss Payne after the 9th, my question was to you, is it
24 safe to say that Miss Payne also thought it was okay for



1 her to work that following weekend, the 16th and 17th?
2 That's a yes or no.

3 MR. CONNORS: Object to the form. You can
4 answer it.

5 THE WITNESS: No, I'm not quite sure.
6 BY MS. SMITH:

7 Q. Why did Mrs. Palmer report to work on the 16th?

8 A. Because Joan assumed, since I was the boss,
9 whatever I said, assume that you want her so I put her
10 on.

11 Q. So you were okay with Mrs. Palmer working the
12 weekend?

13 A. I wanted her to work that weekend schedule and
14 then we would have better handle so we could start doing
15 regular schedules. Remember, as I mentioned before a few
16 times, we were under total chaos. We wanted as many
17 employees to stay with us as possible.

18 Q. So you allowed her to work the weekend regardless
19 of any possible scheduling conflicts at that time?

20 A. Yes, without understanding in detail what her
21 scheduling was going to be.

22 Q. And then you testified a few minutes ago that
23 Miss Payne asked you about at will employment?

24 A. No. She asked me -- she said I terminated her.



1 What can happen because her daughter is threatening to
2 sue us? I said, well, according the Department of Labor,
3 they told me that I was considered at will employment.
4 So you can terminate them without any reason.

5 I have to get my general manager's feedback
6 because the general manager says she's not quite happy
7 with the employee, performance, scheduling, all the
8 other, that I have to take their word for it because they
9 work with them.

10 Q. Was Mrs. Palmer the oldest employee that you had
11 at the time?

12 A. I wouldn't know that because we don't ask the
13 age.

14 Q. Do you know if there were employees there younger
15 than Mrs. Palmer?

16 A. I wouldn't know that because I don't know the
17 ages.

18 Q. Do you know any of the employees that work for
19 Nabstar?

20 A. Personally?

21 Q. Have you ever met them?

22 A. I meet mostly the front desk. Because when I
23 walk into Joan's office, the front desk is always there.

24 Q. The women that came in for housekeeping, the ones



1 that you met that applied, that offered to work all the
2 hours that you requested, you obviously met them; is that
3 correct?

4 A. Yes.

5 Q. By appearances only, I'm gathering, could you
6 tell if they were older or younger than Mrs. Palmer?

7 A. Actually, few of them looking the same and a
8 few --

9 Q. The same age?

10 A. Well, I wouldn't say the same age, but look wise
11 the same. I'm pretty horrible in guessing.

12 Q. So you don't know if there were any employees
13 older or younger than Mrs. Palmer?

14 A. No, I couldn't tell you with confidence. But
15 based on common sense, yeah, a few did look younger, a
16 few did look about the same age.

17 Q. Do you know the ages of any of your employees at
18 Sleep Inn now?

19 A. No. And, for the record, I don't know Joan
20 Payne's age either. She's my general manager, so --

21 Q. You mentioned that when you first met Mrs. Palmer
22 that you thought she was great, if I can use your
23 testimony, and that you wanted to hire her.

24 A. Right. Because the weekend, she mentioned



1 weekend a lot. And as I said previously, the weekend
2 people are hard to find. Part-time becomes even tougher
3 when you work one day.

4 Q. So the answer is yes?

5 A. Yes.

6 Q. But then later on you testified that you thought
7 she had an attitude problem as well?

8 A. Yes.

9 Q. So she was great and had an attitude problem?

10 A. She was great because she wanted to work the
11 weekend hours. In that sense, she was great. The
12 attitude was there. But, you know, I'm always a believer
13 in giving them a chance. I thought if we could train her
14 our way in trying to work her into our schedules and our
15 system, it would be great to have somebody who wants to
16 work the weekends.

17 Q. And in your business of customer service, if a
18 breakfast attendant had an attitude problem, would you
19 find that to be a not so great quality?

20 A. Not at all because, in our business, breakfast is
21 the most important part of the guest's stay.

22 Q. But you still thought she was a great person to
23 hire for the weekends none the less? Despite what you
24 considered to be her having an attitude problem, you



1 still thought that she was a great person to hire for the
2 weekend morning breakfast shift?

3 A. No. That's because when she said she worked the
4 weekend, that part triggered in my head saying great.
5 But as I do the full analysis, the attitude, I kind of
6 put it on the back burner thinking we'll train her in
7 that sense and if she can change. But I did not know the
8 extent of the problem until she left and then Chris, the
9 front office manager, told me that she was very rude and
10 screaming in the lobby.

11 Q. And you are saying that this woman, was she an
12 existing employee?

13 A. No. She was hired by me as an assistant manager,
14 front office manager.

15 Q. So she had never met Mrs. Palmer until that
16 morning --

17 A. Yes.

18 Q. -- when she found someone else working her job;
19 is that correct?

20 A. Yes.

21 Q. And how much interaction did you actually have
22 with Mrs. Palmer when you first met?

23 A. That's the first time we met. That's the only
24 time I had.



1 Q. Was it a brief interaction or was it a long
2 period of time?

3 A. 5, 10 minutes max.

4 Q. From that 5, 10 minutes, you garnered that she
5 had an attitude problem?

6 A. Yes. Because the way she was answering my
7 questions. And when I walked in, she was a little
8 steamy.

9 Q. Do you think it was maybe understandable she
10 would be a little steamy finding somebody working a job
11 that she had been performing before?

12 A. Not quite because I'm assuming the previous
13 owners announced the sale of the property. So you are
14 supposed to come in and talk to the new owners if you
15 want the job.

16 Q. Isn't that what she did?

17 A. She came in on the 9th and we took it over on the
18 4th.

19 Q. If Mrs. Palmer wasn't made aware of the
20 announcement, do you think that that was a possibility?

21 MR. CONNORS: Objection.

22 Q. Let me rephrase. Do you think it's a possibility
23 that Mrs. Palmer was not made aware of the sale?

24 MR. CONNORS: Object to the form.



1 A. I don't know about that one. I don't know what
2 the previous owners did. I can't comment on that.

3 Q. You did earlier testify that they, basically,
4 gave you no information and made it very difficult for
5 you when you took over the sale; is that correct?

6 A. Yes. We requested a meeting to talk to the
7 employees and they would not give us anything until
8 closing date.

9 Q. My question just was: Were they difficult to
10 deal with?

11 A. Yes, very difficult.

12 Q. And you had been told by existing employees that
13 they were poor bookkeepers and that they had poor record
14 keeping, et cetera; is that correct?

15 A. Yes.

16 Q. And regarding the customer complaints that
17 Ms. Payne had received regarding Mrs. Palmer's
18 performance over the weekend of the 16th and the 17th,
19 did you ever see anything in writing regarding
20 Mrs. Palmer?

21 A. No, I did not.

22 Q. Were you ever told that there was anything in
23 writing, any written customer comment cards?

24 A. No. Actually, I asked her in one of the last



1 year's response, I said, if you have any written
2 complaints, you should send it to them as a copy. But it
3 looks like I looked at what she sent in today for the
4 first time and it looks like she sent the wrong ones.

5 Q. So is it the case that any comment cards do, in
6 fact, exist that relate to any customer complaints
7 against Mrs. Palmer?

8 A. Right. If there are, they would be in the file
9 somewhere. Because we stock all the comments in one
10 file.

11 Q. Do you destroy any of these documents?

12 A. Usually comment cards, we don't keep them for a
13 long time. But we are only two years or two-and-a-half
14 years. So I would think that she would still have them
15 somewhere. However, she had left for six months.

16 Q. Who had left for six months?

17 A. Joan Payne.

18 Q. Is there a reason why?

19 A. Personal. Her father was I think -- what you
20 call? She was taking care of her father at home. So we
21 had a different manager in the middle six months.

22 Q. What span of time was that?

23 A. I think it was right before when you came in,
24 which was, I think, in June or July she left.



1 Q. June or July of 2004 or 2005?

2 A. '5. And from that point until January 2nd or
3 January 1st, we had a manager who apparently did not work
4 out. So I called Joan to see if she was coming back to
5 the job market. And she said, yeah, she would take the
6 job back. Although, that was two months of harassment to
7 her saying can you, please, come back.

8 Q. So between August of 2003 and June of 2005,
9 Miss Payne was serving as general manager, correct?

10 A. Correct.

11 Q. When did you receive notice that there was a
12 charge of discrimination filed against Nabstar, LLC, by
13 Islyn Palmer with the EEOC?

14 A. The first one was in December of 2003 I think.

15 Q. Okay.

16 A. And she asked me and I said, well, write up the
17 letter. Apparently, I made a mistake of not reading the
18 letter before she mailed it out because the dates were
19 all incorrect.

20 Q. What dates were incorrect?

21 A. She put August 16th and 17th of orientation or
22 something, meeting with her. And, actually, I talked to
23 her on August 9th.

24 Q. Let's take a look at the letter that you are



1 referring to.

2 (Thereupon, a discussion was had off the
3 record.)

4 (Thereupon, a short recess was had.)

5 BY MS. SMITH:

6 Q. I know I had asked you earlier when the first
7 time you received notice of a charge of discrimination by
8 Mrs. Palmer. And you said that was around December of
9 2003, correct, when you received notice of the charge of
10 discrimination that is?

11 A. I remember 2003.

12 Q. That's fine. And you had mentioned -- actually,
13 there was no question pending.

14 A. You gave me this for clarification. I said my
15 dates on this letter were mixed up.

16 Q. What dates --

17 A. What I'm trying to clarify is Ms. Palmer showed
18 up for breakfast duties the weekend of August 16th and
19 17th. I think that's the misleading statement that is
20 causing more confusion here. She actually showed up on
21 the 9th and then she worked this weekend. I think the
22 wording is not quite accurate or not the right chosen
23 words as to when she wrote the letter.

24 Q. You mean the dates are wrong?

